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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. CR 12-00495-25 SBA
)	
Plaintiff,)	
)	STIPULATED REQUEST AND PROPOSED
v.)	ORDER TO REDO CHANGE OF PLEA ON JUNE
)	28, 2016 ON DUTY MAGISTRATE CALENDAR
JAMES WESLEY VAUGHN, JR.,)	
)	
Defendant.)	OAKLAND VENUE
)	
)	
)	

This case was referred by the District Judge to the Honorable Kandis A. Westmore for change of plea. On June 8, 2016, the defendant entered his guilty plea pursuant to a Plea Agreement entered by all parties. In preparing the materials to send to U.S. Probation for preparation of a Presentence Report, the parties realized that by mutual mistake there is an error in the statutory complex to which the defendant pleaded guilty. Specifically, while the defendant may have been near a school when he possessed a controlled substance, and while other defendants may have been charged in the more-than-80-page indictment with possessing drugs for sale near a school, the captioned defendant Mr. Vaughn was not charged with a violation of 21 U.S.C. § 860, but merely charged with §§ 841(a)(1), and 841(b)(1)(C).

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1 Therefore, the parties ask the Court to allow them to rescind the entered plea and have the defendant
2 enter a plea that does not mistakenly reference § 860. The parties agree that this is the appropriate
3 mechanism to fix this mutual mistake, and will allow the parties to keep the sentencing currently set in
4 September 2016.

5 The parties are aware that the Honorable Kandis A. Westmore is the Magistrate Judge to whom
6 this change of plea was referred, and is also the Duty Magistrate Judge for the month of June 2016. The
7 parties therefore ask that this matter be reset for a new change of plea before the end of the month on the
8 Duty Magistrate Calendar on June 28, 2016. Because the sentencing in this case is not scheduled until
9 September 14, 2016, the parties believe that this this will still allow sufficient time for the presentence
10 report and not delay the sentencing as set. Simultaneous to the filing of this request, the parties are
11 sending over to the Court the revised plea agreement should the Court grant the parties' request to reset
12 this matter on calendar next Tuesday, June 28, 2016, at 9:30 a.m., for a new change of plea.

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14 SO STIPULATED.

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16 Dated: June 21, 2016

/s/

ADAM GASNER
Attorney for Defendant James Wesley Vaughn

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18 Dated: June 21, 2016

/s/

BRIGID S. MARTIN
Assistant United States Attorney

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23 **~~[PROPOSED]~~ ORDER**

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26 By stipulation of the parties and joint request to reset this matter for a new change of plea due to
27 mutual mistake of the parties, the above-captioned matter is hereby set before the Honorable Kandis A.


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1 Westmore on Tuesday, June 28, 2016, for a new change of plea.

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3 IT IS SO ORDERED.

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6 Dated: 6/23/16


HON. KANDIS A. WESTMORE
United States Magistrate Judge